

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

Federal Trade Commission,

Plaintiff,

v.

iBackPack of Texas, LLC, and
Douglas Monahan,

Defendants.

Case No. 3:19-cv-00160

Judge George C. Hanks, Jr.

Magistrate Judge Andrew M. Edison

**DECLARATION OF PATRICK ROY IN SUPPORT OF
PLAINTIFF FTC'S APPLICATION FOR ENTRY OF DEFAULT**

I, Patrick Roy, declare as follows:

1. I am one of the attorneys representing the plaintiff, the Federal Trade Commission, in this action. My business address is Federal Trade Commission, 600 Pennsylvania Avenue NW, Mail Stop CC-10232, Washington, DC, 20580. I have personal knowledge of the facts stated herein and, if called as a witness, could competently testify thereto.

2. On May 6, 2019, the Federal Trade Commission filed its Complaint for Permanent Injunction and Other Equitable Relief against defendants iBackPack of Texas, LLC, and Douglas Monahan. *See* Dkt. No. 1.

3. Defendants iBackPack of Texas, LLC, and Douglas Monahan both timely waived service under Rule 4(d) in response to requests that were sent on

May 6, 2019. True and correct copies of defendants' waivers were filed with the Court on May 20, 2019. *See* Dkt. Nos. 8, 9.

4. As a consequence of defendants' waivers of service, the deadline for the defendants to serve any responsive pleading was July 5, 2019. Fed. R. Civ. P. 12(a)(1)(A)(ii).

5. Neither defendant filed or served an answer. Defendant Monahan, appearing *pro se*, filed on July 8, 2019, a document titled "Motion to Dismiss," which was struck on July 9, 2019, for failure to comply with the Section 6.B of the Court's procedures. Dkt. Nos. 13, 15. No attorney has entered an appearance in this action on behalf of iBackPack of Texas, LLC.¹

6. If the Court's action on July 9, 2019 striking Defendant Monahan's filing is construed as denying a motion to dismiss pursuant to Rule 12, then the latest possible date by which defendant Monahan could have timely served a responsive pleading was July 23, 2019. *See* Fed. R. Civ. P. 12(a)(4)(A).

7. The time set forth in the Federal Rules of Civil Procedure for either defendant to serve a responsive pleading has expired, and this time has not been enlarged by the Court.

¹ Plaintiff understands the "Motion to Dismiss" to have been filed on behalf of defendant Monahan only, and not on behalf of iBackPack of Texas, LLC, as it is a "well-settled rule of law that a corporation cannot appear in federal court unless represented by a licensed attorney." *Memon v. Allied Domecq QSR*, 385 F.3d 871, 873 (5th Cir. 2004).

8. Neither iBackPack of Texas, LLC, nor Douglas Monahan has filed or served an answer or otherwise responded to the complaint.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: August 5, 2019

/s/ Patrick Roy

Patrick Roy, Attorney-in-Charge

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Federal Trade Commission

CERTIFICATE OF SERVICE

I, Patrick Roy, an attorney, hereby certify that on August 5, 2019, I caused to be served true copies of the foregoing Motion for and Brief in Support of Entry of Default on the Defendants through the CM/ECF System and by first-class mail.

/s/ Patrick Roy
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